



CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., PUNE ZONE, PUNE

Case No.44/2017

Date of Grievance : 30.05.2017

Date of Order : 30.06.2017

In the matter of recovery of arrears of P.D. consumer against the present consumer.

Smt.Lata Jagdish Oswal,
 Flat No. 0/283, Adinath Socy.,
 695/A, Bibwewadi,
 Pune- 411037.

Complainant
 (Hereinafter referred to as Consumer)

Versus

The Executive Engineer,
 M.S.E.D.C.L.,
 Padmavati Division,
 Pune.

Respondent
 (Hereinafter referred to as Licensee)

Quorum

Chairperson	Mr. S.N.Shelke
Member Secretary	Smt.B.S.Savant
Member	Mr.S.S.Pathak

Appearance

For Consumer	Mr.S.B.Kulkarni (Representative) Mr.Suresh Oswal
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For Respondent	Mr.R.Edke, AEE,Marketetyard Sub / dn. Mr.Sangle,UDC,Marketyard Sub/dn.
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1. The Consumer has filed present Grievance application under regulation no. 6.4 of the MERC (CGRF & E.O.) Regulations, 2006.
2. Being aggrieved and dissatisfied by the order dated 01.04.2017 passed by IGRC Rastapeth Urban Circle, Pune, thereby rejecting the grievance, the

consumer above named prefers present grievance application on the following amongst other grounds.

3. The papers containing the above grievance were sent by the Forum to the Executive Engineer, M.S.E.D.C.L., Padmavati Dn., Pune vide letter no. EE/CGRF/PZ/Notice/44 of 2017/198 dtd.30.05.2017. Accordingly the Distribution Licensee i.e. MSEDCL filed its reply on 20.06.2017.
4. We heard both sides at length and gone through the contentions of the consumer and reply of the licensee and the documents placed on record by the parties.
5. Facts giving rise to the grievance may be stated as under :

The Consumer namely Mr.V.K.Dhoka, having consumer No. 170012741611 was connected on 01.01.1979 under category LT-I Residential- 1 phase having sanctioned load 0.50 KW. Presently, the said premise is in the name of Smt.Lata Jagdish Oswal & she is the occupant of the said premises. The said occupant has been regularly paying energy bills. There is no any arrears of bills against the present occupant. The Licensee issued notice dated 09.12.2016 in the name of Mr.M.K.Kataria /Mr.V.K.Dhoka under the scheme, " Nav Prkash Yojana 2016-17 " in respect of P.D. Consumer having no. 170012739896 for Rs.28215/-. In the said notice the Licensee has mentioned to pay the said amount within 7 days otherwise the said arrears will be transferred to the consumer no.170012741611 in the current bill & if it is not deposited the supply will be disconnected. According to the present occupant, no any arrears was shown in her bill since last 38 years, nor any notice was received but suddenly after 38 years, the Licensee is insisting to pay the said bill & threatening to disconnect the supply. The said action is against the provisions of Section 56 (2) of E.A.,2003. The consumer filed complaint before IGRC, Rastapeth on 2.2.2017. But the IGRC rejected the complaint on the ground that the applicant Smt.Lata Jagdish Oswal is not a consumer of the company and that the said recovery of arrears of

P.D. consumers is according to MSEDCL Rules vide impugned order dated 01.4.2017.

5. The consumer representative Mr.Sandip Kulkarni submitted that the present consumer namely Smt.Lata Jagdish Oswal is owner and occupier of the said premises having consumer no.170012741611 which is in the name of Mr.V.K.Dhoka. The said occupier is regularly paying the energy bills & no any arrears are against her. The Licensee issued notice dated 9.12.2016 in the name of M.K.Kataria/V.K.Dhoka. But the address of the above mentioned persons was shown as, "building no. 0-283 Adinath Socy". At the said address the present occupant namely Smt.Lata Jagdish Oswal has been residing as owner since last 12 years. In the said notice the Licensee threatened to deposit arrears of Rs.28215 of the P.D. consumer having no.170012739896 else the said arrears will be transferred in the name of consumer no. 170012741611 & if it was not paid the supply will be disconnected.
6. Mr. Kulkarni further submitted that the present occupant has no any concern with the said arrears. It was never reflected in the energy bill of consumer no.170012741611. Therefore the Licensee cannot recover the said arrears according to provisions of Section 56 (2) of E.A., 2003 from the present consumer. He further submits that if the P.D. consumer namely Kataria is in arrears, the Licensee may recover the said arrears from him. The said notice is illegal & therefore the Licensee be directed not to recover the said arrears from the present occupant & the supply should not be disconnected.
7. On the other hand Mr.Edke, Addl.E.E., Marketyard Sub/dn., submitted that the Licensee has introduced the scheme, "Amnesty Scheme for P.D. consumers 2016 - 17 " for recovery of PD arrears as on 28.10.2016. Therefore under the said scheme the notice was issued to the P.D. Consumers stating that the said arrears will be transferred in the name of live consumers in the same premises. However the Licensee has not transferred the said arrears till date. Such arrears can be recovered under the above mentioned scheme & according to provisions of Reg. 10.5 of the

MERC (Electricity supply Code & other conditions of supply) Regulations, 2005.

8. The Licensee produced Commercial Circulars No.269 dated 27.9.2016, No.217 dated 4.1.2017, No. 282 dated 28.2.2017, No.287 dated 29.4.2017, CPL of PD consumer No.170012739896 from Nov.1996 to May-2017, CPL of present consumer no.170012741611 V.K.Dhoka from July-2016 to May-2017.

9. It is to be noted that only those charges for a period of two years previous to the demand are recoverable under the provisions of section 56(2) of the Electricity Act, 2003. Section 56 (2) reads as under:

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.

10. The Licensee can recover arrears of electricity of the deceased consumer or the erstwhile owner/occupier of the premises as due from the new owner/occupier or successor in law as the case may be of the premises under MERC supply code Regulation No.10.5 which reads as under :

10.5. Any charge for electricity or any sum other than a charge for electricity due to the Distribution Licensee which remains unpaid by a deceased consumer or the erstwhile owner/occupier of any premises, as a case may be, shall be a charge on the premises transmitted to the legal representatives/ successors-in-law or transferred to the new owner/occupier of the premises, as the case may be and the same shall be recoverable by the Distribution Licensee as due from such legal representatives or successors-in-law or new owner/occupier of the premises as the case may be :

Provided that, except in the case of transfer of connection to a legal heir, the liabilities transferred under this Regulation 10.5 shall be restricted to a

maximum period of six months of the unpaid charges for electricity supplied to such premises.

11. It is seen from the CPL of consumer no.170012739896 in the name of M.K.Kataria that the said consumer is P.D. (Permanently Disconnected) prior to Nov.1996 having arrears of Rs.28,839/-. It means the said arrears are prior to 1996. The Licensee has not produced CPL of the said consumer prior to 1996. It means the said arrears have been generated prior to 1996. The Licensee has not produced documentary evidence showing the exact period of said arrears. Therefore in view of provisions of Section 56 (2) of E.A., 2003, the Licensee failed to establish when such sum (arrears) became first due & also failed to show the said arrears have been continuously shown.
12. The present occupant namely Smt.Lata Jagdish Oswal produced Corporation Tax bill for the year 2017-2018 in respect of Flat No.283, Adinath Socy., 695/A, Bibwewadi, Pune-411037 which is standing in her name. The Licensee is trying to recover arrears of Rs.28,215/- standing in the name of P.D. consumer namely M.K.Kataria having consumer no.170012739896 from the present consumer having no.170012741611. However the said arrears have never been shown in the CPL of the said consumer. Therefore the Licensee cannot recover the same according to provisions of 56(2) of the Act. Regulation 10.5 of the supply code Regulations, 2005 provides that the unpaid dues of the deceased consumer or the erstwhile owner/occupier of the premises shall be a charged on the premises transmitted to the legal representatives/successors-in-law or transferred to the new owner/occupier of the premises as the case may be and the same shall be recoverable from them as the case may be. But proviso thereunder states that the said liability shall be restricted to a maximum period of six months of the unpaid charges for electricity supplied to such premises. Therefore the Licensee cannot recover the time barred arrears of the P.D. consumer from the present consumer. The aforesaid notice dated 09.12.2016 is thus illegal.

13. It is to be noted that the energy connection having consumer no. 172012741611 is standing in the name of MR.V.K.Dhokha. However the owner & occupier of the said premises is Smt. Lata Jagdish Oswal. She has been regularly paying the electricity bills of the said consumer. Therefore it is required for the Licensee to effect the change of name in her name of the said connection and for that purpose the said occupant to make necessary compliance according to provisions of Reg.No. 10 of MERC, supply code Regulations,2005.
14. The grievance is liable to be allowed.
Lastly we proceed to pass the following order.

ORDER

1. Grievance of the consumer stands allowed with cost.
2. The demand notice dated 09.12.2016 under, " Navprakash Yojana 2016-2017" issued to the consumer having no.170012741611 is hereby set aside.
3. The Licensee shall not recover time barred arrears of P.D. consumer amounting to Rs.28, 215/- from the present consumer.
4. The Licensee shall not disconnect the supply of the present consumer having no.170012741611 for recovery of arrears of the P.D. consumer.
5. The Licensee to effect change of name in respect of consumer no.170012741611 in the name of Smt.Smt.Lata Jagdish Oswal as per Reg.No.10 of MERC, supply code Regulations,2005.
6. The Licensee to report the compliance within one month from the date of this order.

Delivered on: -30.06.2017

Sd/-
S.S.Pathak
Member
CGRF:PZ: PUNE

sd/-
B.S.Savant
Member/Secretary
CGRF:PZ:PUNE

sd/-
S.N.Shelke
Chairperson
CGRF:PZ:PUNE

Note :- The consumer if not satisfied may filed representation against this order before the Hon.' ble Ombudsman within 60 days from the date of this order at the following address.

Office of the Ombudsman,
Maharashtra Electricity Regulatory Commission,
606/608, Keshav Bldg.,
Bandra Kurla Complex,
Bandra (E), Mumbai-51.